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AUG 29 2006	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICARDO MURILLO,

Defendant.

No. CR-S-98-0347-JLQ

ORDER FOR CITATION OF
RECORD RE: DEFENDANT'S
ALLEGATION AS TO
PRECLUSION OF DEFENSE
WITNESSES

The court is in the process of reviewing the filings in this matter to determine if there is a valid basis for the court holding an evidentiary hearing as requested by counsel for the Defendant.

In reviewing the materials submitted, and in particular the Defendant's July 29, 2005 Supplement To Defendant's Motion Pursuant To Title 28 U.S.C. § 2255 (C.R. 237), at page 5, line 8, the court observed the following statement by counsel for the Defendant: "[Thus, at the time that the Court canvassed Murillo regarding his right to testify Murillo was already aware that the court **was not going to allow the witnesses to testify regarding an alibi** nor was it going to give the jury an alibi instruction." (Emphasis supplied).

This court has no recollection of precluding any witnesses from testifying in this matter and a review of the court's notes does not reflect such a ruling. However, the court does not have a copy of the trial transcript and such a ruling, if made, may have escaped the court's memory. By reason of the foregoing, IT IS HEREBY ORDERED

ORDER - 1

1 that counsel for the Defendant shall file with the court on or before September 11, 2006,
2 a copy of the pages, if any, of the trial transcript wherein the court purportedly precluded
3 any proffered witness from testifying or precluded the defense from calling any witness
4 by reason of the lack of a Rule 12.1 alibi notice.

5 The Clerk of this court shall enter this Order and forward copies to counsel.

6 **DATED** this 29th day of August 2006.

7 s/ Justin L. Quackenbush
JUSTIN L. QUACKENBUSH
8 SENIOR UNITED STATES DISTRICT JUDGE
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